

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

NOBLE WILLIAMS,

Plaintiff

v.

C. DANIELS, *et al.*,

Defendants

Case No. 3:20-cv-00667-RFB-WGC

ORDER

I. DISCUSSION

On December 7, 2020, this Court ordered Plaintiff to file a fully complete application to proceed *in forma pauperis* or pay the full \$402 filing fee on or before February 2, 2021. (ECF No. 3). On January 25, 2021, Plaintiff filed a motion for extension of time to file a fully complete application to proceed *in forma pauperis* because he had not yet received his financial certificate from the NDOC. (ECF No. 4). In his motion for extension of time, Plaintiff states that the delay is due to inmate banking taking three to four weeks or longer to return financial certificates to inmates. The Court notes that while Plaintiff's motion does not indicate when he requested the financial certificate, the Court's December 7, 2020 order provided Plaintiff a full 60 days for Plaintiff to obtain the documentation. The Court will grant Plaintiff this one-time extension. Plaintiff shall file a fully complete application to proceed *in forma pauperis* or pay the full \$402 filing fee on or before **February 16, 2021**. Absent unusual circumstances, no further extensions will be granted.

In the event Plaintiff is having difficulty obtaining his financial certificate and inmate account statement from prison officials, Plaintiff shall file an affidavit in this case detailing when he requested the documents following the Court's December 7, 2020 order, who

1 he spoke to about the status of the documents, who he followed up with after he did not
2 receive the documents, and their responses. In other words, if Plaintiff is unable to
3 acquire the necessary documents from prison officials, after making Immediate efforts to
4 do so following receipt of this Court's order dated December 7, 2020, he must provide the
5 Court with an affidavit, signed under the penalty of perjury, that demonstrates he has
6 done all that he could to acquire the documents by the Court's deadline of **February 16,**
7 **2021**. Plaintiff's affidavit should include dates of his requests, dates of his follow-up
8 requests, names of the prison officials that he spoke to about the matter, and their
9 responses. If Plaintiff's affidavit demonstrates that he immediately did all that was
10 possible to acquire the documents, the Court will consider his application to proceed *in*
11 *forma pauperis* complete.¹

14 If Plaintiff does not file a fully complete application to proceed *in forma pauperis*
15 with all three required documents, or the first three pages of the application to proceed *in*
16 *forma pauperis* and an affidavit detailing the efforts he took to acquire his financial
17 certificate and inmate account statement from prison officials, or pay the full \$402 filing
18 fee for a civil action on or before **February 16, 2021**, this case will be subject to dismissal
19 without prejudice for Plaintiff to file a new case with the Court when Plaintiff is able to
20 acquire all three of the documents needed to file a fully complete application to proceed
21 *in forma pauperis* or pays the \$402 filing fee.

24 A dismissal without prejudice means Plaintiff does not give up the right to refile the

26
27 ¹ Plaintiff must still submit the first three pages of the application to proceed *in forma*
28 *pauperis* on this Court's approved form with his affidavit. If Plaintiff does not submit the first
three pages of the application to proceed *in forma pauperis* with the affidavit, the Court will
dismiss the case without prejudice for Plaintiff to open a new case when he is able to acquire the
required documents.

1 case with the Court, under a new case number, when Plaintiff has all three documents
 2 needed to submit with the application to proceed *in forma pauperis*. Alternatively, Plaintiff
 3 may choose not to file an application to proceed *in forma pauperis* and instead pay the
 4 full filing fee of \$402 on or before **February 16, 2021** to proceed with this case.

5
 6 The Court will retain Plaintiff's civil rights complaint (ECF No. 1-1), but the Court
 7 will not file the complaint unless and until Plaintiff timely files a fully complete application
 8 to proceed *in forma pauperis* with all three documents or pays the full \$402 filing fee.

9 **II. CONCLUSION**

10 IT IS ORDERED that Plaintiff's motion for extension of time (ECF No. 4) is granted.

11
 12 IT IS FURTHER ORDERED that the Clerk of the Court will send Plaintiff the
 13 approved form application to proceed *in forma pauperis* by an inmate, as well as the
 14 document entitled information and instructions for filing an *in forma pauperis* application.

15 IT IS FURTHER ORDERED that on or before **February 16, 2021**, Plaintiff will
 16 either pay the full \$402 filing fee for a civil action (which includes the \$350 filing fee and
 17 the \$52 administrative fee) or file with the Court:

18
 19 (1) a completed **Application to Proceed in Forma Pauperis for Inmate** on this
 20 Court's approved form (i.e. pages 1 through 3 of the form with the inmate's two
 21 signatures on page 3),

22
 23 (2) a **Financial Certificate** properly signed by both the inmate and a prison or jail
 24 official (i.e. page 4 of this Court's approved form), and

25 (3) a copy of the **inmate's prison or jail trust fund account statement for the**
 26 **previous six-month period.**

27 IT IS FURTHER ORDERED that if Plaintiff is not able to obtain his financial
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1 certificate and inmate account statement from the prison facility, Plaintiff shall file the first
2 three pages of the application to proceed *in forma pauperis* and submit an affidavit, signed
3 under the penalty of perjury, detailing the efforts he took to acquire his financial certificate
4 and inmate account statement from prison officials.
5

6 IT IS FURTHER ORDERED that, if Plaintiff does not file a fully complete
7 application to proceed *in forma pauperis* with all three documents, or the first three pages
8 of the application to proceed *in forma pauperis* and an affidavit detailing the efforts he
9 took to acquire his financial certificate and inmate account statement from prison officials,
10 or pay the full \$402 filing fee for a civil action on or before **February 16, 2021**, this case
11 will be subject to dismissal without prejudice for Plaintiff to refile the case with the Court,
12 under a new case number, when Plaintiff has all three documents needed to file a
13 complete application to proceed *in forma pauperis* or pays the full \$402 filing fee.
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15 IT IS FURTHER ORDERED that the Clerk of the Court will retain the complaint
16 (ECF No.1-1), but the Court will not file the complaint unless and until Plaintiff timely files
17 a fully complete application to proceed *in forma pauperis* with all three documents or pays
18 the full \$402 filing fee.
19

20 DATED: January 28, 2021

21 William G. Cobb
22 UNITED STATES MAGISTRATE JUDGE
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